
By: **The Speaker and the Minority Leader (By Request - Administration)**
and Delegates Edwards, Aumann, Bartlett, Barve, Bates, Boschert,
Boteler, Boutin, Burns, Cane, V. Clagett, Costa, Cryor, Eckardt, Elmore,
Frank, Frush, Glassman, Goldwater, Hammen, Hogan, Holmes,
Hubbard, Kelly, Krebs, Leopold, Malone, Marriott, McComas,
McConkey, McHale, McIntosh, Miller, Mitchell, Moe, Morhaim,
Nathan-Pulliam, Oaks, O'Donnell, Owings, Parker, Parrott, Ross,
Rudolph, Sossi, Stern, Stocksdale, Stull, Walkup, Weir, Weldon, and
Wood

Introduced and read first time: January 27, 2004
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 2, 2004

CHAPTER _____

1 AN ACT concerning

2 **Brownfields Redevelopment Reform Act**

3 FOR the purpose of providing that certain applicants and certain properties may be
4 eligible to participate in the Voluntary Cleanup Program in the Maryland
5 Department of the Environment (~~MDE~~) under certain conditions; altering the
6 process by which a person may apply for, receive, and maintain inculpable
7 person status; requiring ~~MDE~~ the Department to review certain standards in a
8 certain time period; establishing certain application fees under certain
9 circumstances; altering certain application fees; ~~authorizing MDE to develop~~
10 requiring the Department to adopt certain regulations; altering certain
11 procedures and requirements for applications to the Voluntary Cleanup
12 Program; altering certain procedures and deadlines for public participation in
13 ~~MDE's~~ the Department's process of approving response action plans;
14 establishing certain liability protection for certain participants receiving a no
15 further requirements notice; establishing certain liability protections for certain
16 participants and successors in interest to certain property; requiring certain
17 persons to submit certain information to a one-call system in Maryland;
18 requiring certain persons to be responsible for the cost of cleaning up a property
19 under certain conditions; establishing certain fees for certain conditions on
20 certain property; authorizing the State to bring a civil action for punitive

1 ~~damage damages~~ against certain persons who fail to comply with certain orders
2 under certain circumstances; clarifying that certain actions by the Department
3 do not affect certain active enforcement actions; requiring MDE to approve a
4 response action plan for a portion of a property under certain conditions;
5 requiring ~~MDE~~ the Department to convene a certain work group; authorizing
6 certain agents or employees to enter certain private land in Baltimore City
7 under certain conditions; providing that certain persons and contaminated
8 properties are eligible for money from the Brownfields Redevelopment Incentive
9 Program in the Department of Business and Economic Development; altering
10 certain requirements for certain local governments to participate in the
11 program; altering the process for the distribution and use of certain
12 contributions; ~~defining~~ altering the definitions of certain terms; and generally
13 relating to the Voluntary Cleanup Program and the Brownfields Redevelopment
14 Incentive Program.

15 BY adding to
16 Article - Environment
17 Section 7-266.1 and 7-506.1
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2003 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Environment
22 Section 7-501(e), (g), and (j), 7-505, 7-506, 7-509, ~~7-510(a)~~; 7-511(a), 7-512(a),
23 7-514, and 7-515
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 2003 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Real Property
28 Section 12-111(f)
29 Annotated Code of Maryland
30 (2003 Replacement Volume and 2003 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article 83A - Business and Economic Development
33 Section 5-1401(j) and 5-1408(a)
34 Annotated Code of Maryland
35 (2003 Replacement Volume)

36 BY repealing and reenacting, with amendments,
37 Article - Tax - Property
38 Section 9-229(g)
39 Annotated Code of Maryland
40 (2001 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Environment**

4 7-266.1.

5 ~~(A) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN~~
6 ~~EQUITY, ANY RESPONSIBLE PERSON WHO FAILS WITHOUT GOOD CAUSE TO COMPLY~~
7 ~~WITH A FINAL ORDER OF THE STATE IN ACCORDANCE WITH THIS SUBTITLE MAY BE~~
8 ~~LIABLE TO THE STATE FOR PUNITIVE DAMAGES.~~

9 ~~(2) PUNITIVE DAMAGES MAY BE ASSESSED IN AN AMOUNT NOT TO~~
10 ~~EXCEED THREE TIMES THE AMOUNT OF ANY COSTS INCURRED BY THE STATE AS A~~
11 ~~RESULT OF SUCH FAILURE.~~

12 ~~(3) A RESPONSIBLE PERSON SHALL BE ENTITLED TO A CONTESTED~~
13 ~~CASE HEARING FOR A DETERMINATION WHETHER THE RESPONSIBLE PERSON HAS~~
14 ~~FAILED WITHOUT GOOD CAUSE TO COMPLY WITH A FINAL ORDER OF THE STATE IN~~
15 ~~ACCORDANCE WITH THIS SUBTITLE.~~

16 ~~(4) PUNITIVE DAMAGES MAY BE CALCULATED ONLY ON THE COSTS~~
17 ~~ARISING AFTER THE DATE A DETERMINATION IS MADE UNDER PARAGRAPH (3) OF~~
18 ~~THIS SUBSECTION.~~

19 ~~(B) THE STATE IS AUTHORIZED TO COMMENCE A CIVIL ACTION AGAINST ANY~~
20 ~~PERSON TO RECOVER PUNITIVE DAMAGES IN ACCORDANCE WITH SUBSECTION (A)~~
21 ~~OF THIS SECTION, WHICH SHALL BE IN ADDITION TO ANY COSTS RECOVERED FROM~~
22 ~~THE PERSON IN ACCORDANCE WITH § 7-221 OF THIS SUBTITLE.~~

23 ~~(A) IN ADDITION TO BEING SUBJECT TO PENALTIES UNDER §§ 7-266 AND 7-267~~
24 ~~OF THIS SUBTITLE AND COST RECOVERY UNDER § 7-221 OF THIS SUBTITLE, A~~
25 ~~RESPONSIBLE PERSON WHO FAILS WITHOUT SUFFICIENT CAUSE TO COMPLY WITH A~~
26 ~~FINAL ORDER ISSUED UNDER THIS SUBTITLE IS SUBJECT TO PUNITIVE DAMAGES,~~
27 ~~NOT EXCEEDING THREE TIMES THE AMOUNT OF ANY COSTS THAT ARE INCURRED BY~~
28 ~~THE STATE;~~

29 ~~(1) AFTER THE DATE OF THE FINAL DECISION AS PROVIDED IN~~
30 ~~SUBSECTION (B) OF THIS SECTION; AND~~

31 ~~(2) AS A RESULT OF THE RESPONSIBLE PERSON'S FAILURE TO COMPLY~~
32 ~~WITH THE FINAL ORDER.~~

33 ~~(B) (1) BEFORE SEEKING THE PUNITIVE DAMAGES AUTHORIZED BY~~
34 ~~SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE TO THE~~
35 ~~RESPONSIBLE PERSON A DETERMINATION THAT THE RESPONSIBLE PERSON FAILED~~
36 ~~WITHOUT SUFFICIENT CAUSE TO COMPLY WITH A FINAL ORDER ISSUED UNDER THIS~~
37 ~~SUBTITLE.~~

1 (2) A RESPONSIBLE PERSON SUBJECT TO A DETERMINATION ISSUED BY
 2 THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A
 3 CONTESTED CASE HEARING TO DETERMINE WHETHER THE RESPONSIBLE PERSON
 4 HAD SUFFICIENT CAUSE FOR THE FAILURE TO COMPLY WITH THE FINAL ORDER.

5 (3) FOLLOWING A FINAL DECISION UPHOLDING THE DETERMINATION
 6 ISSUED BY THE DEPARTMENT, THE STATE MAY COMMENCE A CIVIL ACTION AGAINST
 7 THE RESPONSIBLE PERSON TO RECOVER THE PUNITIVE DAMAGES.

8 7-501.

9 (e) "Contamination" means a release, discharge, or threatened release of:

10 (1) [a] A controlled hazardous substance, as defined in § 7-201 of this
 11 title; OR

12 (2) OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.

13 (g) (1) "Eligible property" means property ~~OR A PORTION OF A PROPERTY~~
 14 that is contaminated or perceived to be contaminated.

15 (2) "Eligible property" does not include property that is:

16 (i) On the national priorities list under § 105 of the federal act;

17 (ii) [Under] EXCEPT AS PROVIDED IN PARAGRAPH (3)(I) OF THIS
 18 SUBSECTION, UNDER active enforcement; or

19 (iii) Subject to a controlled hazardous substances permit issued in
 20 accordance with Title 7 of this article.

21 (3) (I) "ELIGIBLE PROPERTY" ~~MAY INCLUDE~~ INCLUDES A SITE UNDER
 22 ACTIVE ENFORCEMENT IF:

23 1. ALL APPLICATIONS FILED IN CONNECTION WITH THE
 24 PROPERTY ARE FILED BY INCULPABLE PERSONS; AND

25 2. ANY RESPONSE ACTION PLAN AND CLEANUP CRITERIA
 26 APPROVED BY THE DEPARTMENT UNDER THIS SUBTITLE ~~ARE IS~~ IS AT LEAST AS
 27 PROTECTIVE OF PUBLIC HEALTH AND THE ENVIRONMENT AS THE REQUIREMENTS
 28 OF ANY OUTSTANDING ACTIVE ENFORCEMENT ACTION.

29 (II) "Eligible property" includes sites listed on the Comprehensive
 30 Environmental Response, Compensation, and Liability Information System.

31 (j) (1) "Inculpable person" means a person who:

32 (i) Has no prior or current ownership interest in an eligible
 33 property at the time of application to participate in the Voluntary Cleanup Program;
 34 and

1 (ii) Has not caused or contributed to contamination at the eligible
2 property at the time of application to participate in the Voluntary Cleanup Program.

3 (2) "Inculpable person" includes:

4 (I) [a] A successor in interest in an eligible property acquired from
5 an inculpable person, as defined in paragraph (1) of this subsection, if the successor in
6 interest does not have a prior ownership interest in the eligible property and, other
7 than by virtue of ownership of the eligible property, is not otherwise a responsible
8 person at the eligible property; AND

9 (II) NOTWITHSTANDING PARAGRAPH (1)(I) OF THIS SUBSECTION, A
10 PERSON WHO IS NOT CONSIDERED A RESPONSIBLE PERSON UNDER § 7-201(X)(2) OF
11 THIS TITLE.

12 7-505.

13 (a) (1) If the Department approves ~~an applicant's~~ A PERSON'S status as an
14 inculpable person under § [7-506(b)(1)(i)1] ~~7-506(E)(1)(I)~~ of this subtitle, the
15 ~~participant's~~ PERSON'S status as an inculpable person continues upon acquiring an
16 interest in the eligible property.

17 (2) IF THE APPLICANT PERSON MEETS THE REQUIREMENTS OF §
18 7-506(A) 7-506(A)(1)(I), (II), AND (III) OF THIS SUBTITLE, THE DEPARTMENT SHALL
19 APPROVE OR DISAPPROVE AN APPLICANT'S THE PERSON'S STATUS AS AN
20 INCULPABLE PERSON WITHIN 5 BUSINESS DAYS OF RECEIVING:

21 (I) A WRITTEN REQUEST FROM THE APPLICANT PERSON FOR AN
22 EXPEDITED DETERMINATION OF THE APPLICANT'S PERSON'S STATUS AS AN
23 INCULPABLE PERSON; AND

24 (II) A FEE OF \$2,000.

25 (3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE
26 DEPARTMENT'S APPROVAL OF A PERSON'S STATUS AS AN INCULPABLE PERSON
27 EXPIRES IF THE APPLICATION, INCLUDING ANY APPLICABLE FEES, REQUIRED
28 UNDER THIS SUBTITLE IS NOT FILED WITHIN 6 MONTHS AFTER THE APPROVAL OF A
29 PERSON'S STATUS AS AN INCULPABLE PERSON.

30 (b) Except as provided in subsection (c) of this section, an inculpable person is
31 not liable for existing contamination at the eligible property.

32 (c) An inculpable person shall be liable for:

33 (1) New contamination that the person causes or contributes to at the
34 eligible property; and

35 (2) Exacerbation of existing contamination at the eligible property.

1 7-506.

2 (a) To participate in the Program, an applicant shall:

3 (1) Submit an application, on a form provided by the Department, that
4 includes:

5 (i) Information demonstrating to the satisfaction of the
6 Department that the contamination did not result from the applicant knowingly or
7 willfully violating any law or regulation concerning controlled hazardous substances;

8 (ii) Information demonstrating the person's status as a responsible
9 person or an inculpable person;

10 (iii) Information demonstrating that the property is an eligible
11 property as defined in § 7-501 of this subtitle;

12 (iv) A detailed report with all available relevant information on
13 environmental conditions including contamination at the eligible property known to
14 the applicant at the time of the application;

15 (v) ~~1-~~ An environmental site assessment that includes:

16 ~~A-~~ 1- [established] ESTABLISHED Phase I [and Phase II]
17 site assessment standards and follows principles established by the American Society
18 for Testing and Materials and that demonstrates to the satisfaction of the
19 Department that the assessment has [adequately investigated all potential sources
20 and areas of contamination] BEEN CONDUCTED IN ACCORDANCE WITH THOSE
21 STANDARDS AND PRINCIPLES; AND

22 ~~B-~~ 2- A PHASE II SITE ASSESSMENT ~~IF UNLESS THE~~
23 DEPARTMENT CONCLUDES, AFTER REVIEW OF THE PHASE I SITE ASSESSMENT, ANY
24 PUBLIC COMMENTS SUBMITTED DURING THE PUBLIC COMMENT PERIOD, AND
25 INFORMATION IN THE DEPARTMENT'S FILES, THAT THERE ARE NO RECOGNIZED
26 ENVIRONMENTAL CONDITIONS AS DEFINED BY THE AMERICAN SOCIETY FOR
27 TESTING AND MATERIALS; ~~AND~~

28 2- FOR AN APPLICATION FOR A PORTION OF A PROPERTY IN
29 ACCORDANCE WITH § 7-501(G)(1) OF THIS SUBTITLE, AN ENVIRONMENTAL SITE
30 ASSESSMENT THAT HAS BEEN CONDUCTED FOR THE ENTIRE PROPERTY; and

31 (vi) A description, in summary form, of a proposed voluntary
32 cleanup project that includes the proposed cleanup criteria under § 7-508 of this
33 subtitle and the proposed future use of the property, if appropriate; and

34 (2) Pay to the Department:

35 (I) [an] AN INITIAL application fee of \$6,000[, unless the
36 Department determines that a lesser fee would be sufficient to cover the costs
37 described in subsection (d) of this section] WHICH THE DEPARTMENT MAY REDUCE

1 ON A DEMONSTRATION OF FINANCIAL HARDSHIP IN ACCORDANCE WITH
2 SUBSECTION (B) OF THIS SECTION; ~~AND~~

3 (II) AN APPLICATION FEE OF \$2,000 FOR EACH APPLICATION
4 SUBMITTED SUBSEQUENT TO THE INITIAL APPLICATION FOR THE SAME PROPERTY;
5 AND

6 (III) AN APPLICATION FEE OF \$2,000 FOR EACH APPLICATION
7 SUBMITTED SUBSEQUENT TO THE INITIAL APPLICATION FOR CONTIGUOUS OR
8 ADJACENT PROPERTIES THAT ARE PART OF THE SAME PLANNED UNIT
9 DEVELOPMENT OR A SIMILAR DEVELOPMENT PLAN.

10 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH CRITERIA
11 FOR DETERMINING WHETHER AN APPLICANT'S STATUS FOR A DEMONSTRATION OF
12 APPLICANT HAS DEMONSTRATED FINANCIAL HARDSHIP.

13 (C) (1) THE APPLICANT MAY DELAY SUBMITTING THE PHASE II SITE
14 ASSESSMENT UNTIL AFTER THE APPLICATION AND APPLICABLE FEES ARE
15 SUBMITTED.

16 (2) IF AN APPLICANT DELAYS FILING A PHASE II SITE ASSESSMENT, ALL
17 RELATED DEADLINES FOR PUBLIC NOTICE AND ACTION BY THE DEPARTMENT SHALL
18 BE EXTENDED AND CONFORM WITH THE DATE THE PHASE II SITE ASSESSMENT IS
19 SUBMITTED AND THE APPLICATION IS COMPLETE.

20 (D) (1) ON SUBMISSION OF THE APPLICATION, THE DEPARTMENT SHALL
21 PUBLISH A NOTICE OF THE APPLICATION ON ITS WEBSITE AND THE APPLICANT
22 SHALL POST NOTICE AT THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION.

23 (2) THE NOTICES REQUIRED UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION SHALL INCLUDE:

25 (I) THE NAME AND ADDRESS OF THE APPLICANT AND THE
26 PROPERTY; ~~AND~~

27 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
28 OFFICE WITHIN THE DEPARTMENT FROM WHICH INFORMATION ABOUT THE
29 APPLICATION MAY BE OBTAINED; AND

30 (III) THE TIME PERIOD DURING WHICH THE DEPARTMENT WILL
31 RECEIVE AND CONSIDER WRITTEN COMMENTS FROM THE PUBLIC.

32 [(b)] (E) (1) (i) The Department shall notify the applicant in writing,
33 within [60] 45 days after receipt of the application, whether:

34 1. The application, including the applicant's status as a
35 responsible person or an inculpable person, is approved;

36 2. The application is denied or incomplete; or

- 1 (ii) The property is not an eligible property; or
- 2 (iii) The property was initially contaminated by a release of
3 hazardous substances after October 1, 1997 unless:
- 4 1. The property is acquired by an inculpable person; or
- 5 2. The contamination was caused by an act of God.

6 (2) For the purposes of paragraph (1) (iii) of this subsection, any property
7 identified in the Comprehensive Environmental Response, Compensation, and
8 Liability Information System in accordance with the federal act as of October 1, 1997
9 is presumed to have been initially contaminated on or before October 1, 1997.

10 [(d) (1) If the direct costs of review of the application and administration and
11 oversight of the response action plan exceed the application fee, the Department shall
12 require an applicant or participant to pay to the Department the additional costs
13 incurred by the Department.

14 (2) If the direct costs of review of the application and administration and
15 oversight of the response action plan are less than the application fee, the
16 Department shall refund to the applicant or participant the difference between the
17 costs incurred and the application fee.

18 (e)] (G) (1) Within 30 days after receiving notification of approval of an
19 application, a participant shall inform the Department in writing whether the
20 participant intends to proceed or withdraw from the Program.

21 (2) If a participant does not notify the Department of the participant's
22 intent to proceed or withdraw in accordance with paragraph (1) of this subsection, the
23 application will be deemed to be withdrawn.

24 [(f)] (H) A determination by the Department that it has no further
25 requirements may be transferred to a subsequent purchaser of the property provided
26 that the subsequent purchaser did not cause or contribute to the contamination.

27 [(g)] (I) (1) If a determination by the Department that it has no further
28 requirements is conditioned on certain uses of the property or on the maintenance of
29 certain conditions, the participant shall record the determination in the land records
30 of the local jurisdiction within 30 days after receiving the determination.

31 (2) If the determination by the Department that it has no further
32 requirements is conditioned on certain uses of the property or on the maintenance of
33 certain conditions and the participant fails to record the determination in the land
34 records in accordance with paragraph (1) of this subsection, the determination shall
35 be void.

36 (3) (I) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO
37 FURTHER REQUIREMENTS AT A PROPERTY IS CONDITIONED ON CERTAIN USES OF
38 THE PROPERTY OR ON THE MAINTENANCE OF CERTAIN CONDITIONS, THE

1 PARTICIPANT SHALL SEND A COPY OF THE DETERMINATION TO A ONE-CALL SYSTEM
2 AS DEFINED IN § 12-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

3 (II) ANY OBLIGATION FOR THE PARTICIPANT TO SEND THE
4 INFORMATION REQUIRED UNDER ~~§ 7-506(D)(2)~~ SUBPARAGRAPH (I) OF THIS SECTION
5 PARAGRAPH DOES NOT NEGATE THE OBLIGATION OF AN OWNER AS DEFINED IN §
6 12-101(F) OF THE PUBLIC UTILITY COMPANIES ARTICLE TO BECOME A MEMBER OF
7 THE ONE-CALL SYSTEM UNDER TITLE 12 OF THE PUBLIC UTILITY COMPANIES
8 ARTICLE.

9 (J) SUBJECT TO THE PROVISIONS OF § 7-516(A) OF THIS SUBTITLE AND
10 APPROVAL BY THE DEPARTMENT, IF AN OWNER OF AN ELIGIBLE PROPERTY THAT
11 HAS LIMITED PERMISSIBLE USES WANTS TO CHANGE THE USE OF THE ELIGIBLE
12 PROPERTY, THE OWNER, ~~SUBJECT TO APPROVAL BY THE DEPARTMENT~~, IS
13 RESPONSIBLE FOR THE COST OF CLEANING UP THE PROPERTY TO THE APPROPRIATE
14 STANDARD.

15 7-506.1.

16 (A) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO FURTHER
17 REQUIREMENTS IS CONDITIONED ON CERTAIN USES OF THE PROPERTY OR ON THE
18 MAINTENANCE OF CERTAIN CONDITIONS, THE PARTICIPANT SHALL PAY TO THE
19 DEPARTMENT A FEE OF \$2,000.

20 (B) IF A CERTIFICATE OF COMPLETION IS CONDITIONED ON THE
21 PERMISSIBLE USE OF THE PROPERTY, THE PARTICIPANT SHALL PAY TO THE
22 DEPARTMENT A FEE OF \$2,000.

23 (C) ON A REQUEST BY A PARTICIPANT TO ALTER A RECORD OF
24 DETERMINATION IN THE LAND RECORDS FOR AN ELIGIBLE PROPERTY WITH
25 CONDITIONS IN ACCORDANCE WITH § 7-506(I) OR § 7-514(D) OF THIS SUBTITLE, THE
26 PARTICIPANT SHALL PAY TO THE DEPARTMENT A FEE OF \$2,000.

27 7-509.

28 (a) Upon submission of a proposed response action plan, the participant:

29 (1) Shall publish a notice of a proposed response action plan once a week
30 for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the
31 geographical area in which the eligible property is located that shall include:

32 (i) A summary of the proposed response action plan;

33 (ii) The name and address of the participant and eligible property;

34 (iii) The name, address, and telephone number of the office within
35 the Department from which information about the proposed response action plan may
36 be obtained;

1 (iv) An address to which persons may submit written comments
 2 about the proposed response action [plan or request a public informational meeting;
 3 and] PLAN;

4 (v) A deadline for the close of the public comment period by which
 5 written comments [or requests for a public informational meeting] must be received
 6 by the Department; and

7 (VI) THE DATE AND LOCATION OF THE PUBLIC ~~INFORMATION~~
 8 INFORMATIONAL MEETING; AND

9 (2) Shall post at the eligible property a notice of intent to conduct a
 10 response action plan at that property.

11 (b) The Department shall receive written comments from the public for 30
 12 days after publication and posting required under this section OR 5 DAYS AFTER THE
 13 PUBLIC INFORMATIONAL MEETING REQUIRED UNDER THIS SECTION, WHICHEVER IS
 14 LATER.

15 (c) The Department shall hold a public informational meeting on the proposed
 16 response action plan at the participant's expense within [30] ~~45~~ 40 days after [the
 17 Department receives a written request for a meeting from the applicant or the public]
 18 THE PUBLICATION OF THE NOTICE IN ACCORDANCE WITH SUBSECTION (A)(1) OF
 19 THIS SECTION.

20 ~~7-510.~~

21 ~~(a) (1) The Department shall approve a response action plan FOR AN~~
 22 ~~ELIGIBLE PROPERTY if the Department determines that the response action plan~~
 23 ~~protects public health and the environment.~~

24 ~~(2) THE DEPARTMENT SHALL APPROVE A RESPONSE ACTION PLAN FOR~~
 25 ~~A PORTION OF THE PROPERTY IN ACCORDANCE WITH § 7-501(G)(1) OF THIS SUBTITLE,~~
 26 ~~UNLESS THE DEPARTMENT DETERMINES THAT CONTAMINATION ON THE~~
 27 ~~REMAINDER OF THE PROPERTY REPRESENTS AN IMMINENT AND SUBSTANTIAL~~
 28 ~~ENDANGERMENT TO PUBLIC HEALTH OR THE ENVIRONMENT.~~

29 7-511.

30 (a) Within [120] 75 days after the Department has received a proposed
 31 response action plan, the Department, after considering any comments the
 32 Department has received under § 7-509 of this subtitle, shall notify the participant in
 33 writing that:

34 (1) The response action plan has been approved; or

35 (2) The response action plan has been rejected and shall state the
 36 modifications in the response action plan that are necessary to receive the
 37 Department's approval.

1 7-512.

2 (a) Except as provided in subsections (b) and (c) of this section, a participant
3 may withdraw from the Program at the time of a pending application or response
4 action plan, or after receiving a certificate of completion, and may not be obligated to
5 complete an application or a response action plan if the participant:

6 (1) Provides 10 days written notice of the anticipated withdrawal to the
7 Department;

8 (2) Stabilizes and secures the eligible property to the satisfaction of the
9 Department to ensure protection of the public health and the environment; and

10 (3) Forfeits any [expended] application [and oversight] fees.

11 7-514.

12 (a) A response action plan approval letter does not:

13 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
14 Department from taking action against any person to prevent or abate an imminent
15 and substantial endangerment to the public health or the environment at the eligible
16 property;

17 (2) Remain in effect if the response action plan approval letter is
18 obtained through fraud or a material misrepresentation;

19 (3) Affect the authority of the Department to take any action against any
20 person concerning new contamination or the exacerbation of existing contamination
21 at an eligible property after a response action plan approval letter has been issued by
22 the Department;

23 (4) Affect the authority of the Department to take any action against a
24 responsible person concerning previously undiscovered contamination at an eligible
25 property after a response action plan approval letter has been issued by the
26 Department;

27 (5) Prevent the Department from taking action against any person who
28 is responsible for long-term monitoring and maintenance as provided in the response
29 action plan; or

30 (6) Prevent the Department from taking action against any person who
31 does not comply with conditions on the permissible use of the eligible property
32 contained in the response action plan approval letter.

33 (b) A certificate of completion does not:

34 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
35 Department from taking action against any person to prevent or abate an imminent

1 and substantial endangerment to the public health or the environment at the eligible
2 property;

3 (2) Remain in effect if the certificate of completion is obtained through
4 fraud or a material misrepresentation;

5 (3) Affect the authority of the Department to take any action against any
6 person concerning new contamination or exacerbation of existing contamination at an
7 eligible property after a certificate of completion has been issued by the Department;

8 (4) Affect the authority of the Department to take any action against a
9 responsible person concerning previously undiscovered contamination at an eligible
10 property after a certificate of completion has been issued by the Department;

11 (5) Prevent the Department from taking action against any person who
12 is responsible for long-term monitoring and maintenance for failure to comply with
13 the response action plan;

14 (6) Prevent the Department from taking action against any person who
15 does not comply with conditions on the permissible use of the eligible property
16 contained in the certificate of completion; or

17 (7) Subject to the provisions of § 7-512 of this subtitle, prevent the
18 Department from requiring any person to take further action if the eligible property
19 fails to meet the applicable cleanup criteria set forth in the response action plan
20 approved by the Department.

21 (c) A response action plan approval letter or a certificate of completion may be
22 transferred to any person whose actions did not cause or contribute to the
23 contamination.

24 (d) (1) If a certificate of completion is conditioned on the permissible use of
25 the property [for industrial or commercial purposes], the participant shall record the
26 certificate of completion in the land records of the local jurisdiction within 30 days
27 after receiving the certificate.

28 (2) If the certificate of completion has a conditioned use and the
29 participant fails to record the certificate of completion in the land records in
30 accordance with paragraph (1) of this subsection, the certificate of completion shall be
31 void.

32 (3) (I) IF A CERTIFICATE OF COMPLETION IS CONDITIONED ON THE
33 PERMISSIBLE USE OF THE PROPERTY, THE PARTICIPANT SHALL SEND A COPY OF THE
34 CERTIFICATE OF COMPLETION TO A ONE-CALL SYSTEM, AS DEFINED IN § 12-101 OF
35 THE PUBLIC UTILITY COMPANIES ARTICLE.

36 (II) ANY OBLIGATION FOR THE PARTICIPANT TO SEND THE
37 INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT
38 NEGATE THE OBLIGATION OF AN OWNER AS DEFINED UNDER § 12-101(F) OF THE

1 PUBLIC UTILITY COMPANIES ARTICLE TO BECOME A MEMBER OF THE ONE-CALL
2 SYSTEM UNDER TITLE 12 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

3 (e) Subject to the provisions of § 7-516(a) of this subtitle, if an owner of an
4 eligible property that has limited permissible uses wants to change the use of the
5 eligible property, the owner, subject to approval by the Department, is responsible for
6 the cost of cleaning up the eligible property to the appropriate standard.

7 (F) THE PARTICIPANT AND ANY SUCCESSORS IN INTEREST IN A PROPERTY
8 SUBJECT TO A CERTIFICATE OF COMPLETION SHALL CONTINUE TO BE PROTECTED
9 FROM LIABILITY IN THE EVENT OF ANY VIOLATION OF THE CONDITIONS PLACED ON
10 THE USE OF THE PROPERTY, PROVIDED THAT THE PARTICIPANT AND ANY
11 SUCCESSORS IN INTEREST DID NOT CAUSE OR CONTRIBUTE TO THE VIOLATION.

12 7-515.

13 (A) The provisions of §§ 7-256 through 7-268 of this title shall be used and
14 shall apply to enforce violations of:

15 (1) This subtitle; or

16 (2) Any regulation adopted under this subtitle.

17 (B) ANY ACTION TAKEN BY THE DEPARTMENT UNDER THIS SUBTITLE AT A
18 SITE UNDER ACTIVE ENFORCEMENT MAY NOT:

19 (1) NEGATE THE TERMS AND CONDITIONS OF ANY OUTSTANDING
20 ACTIVE ENFORCEMENT ORDER, DECREE, JUDGMENT, PERMIT, OR OTHER DOCUMENT
21 THAT ADDRESSES ENVIRONMENTAL CONTAMINATION AT THE SITE; OR

22 (2) RELIEVE ANY PERSON WHO IS THE SUBJECT OF AN ACTIVE
23 ENFORCEMENT ACTION FROM LIABILITY FOR PENALTIES UNDER THE
24 ENFORCEMENT ACTION.

25 **Article - Real Property**

26 12-111.

27 (f) In Anne Arundel County OR BALTIMORE CITY, an agent or employee, or
28 one or more assistants of the county, after real and bona fide effort to notify the
29 occupant or the owner, if the land is unoccupied or if the occupant is not the owner,
30 may enter on any private land to make test borings and soil tests and obtain
31 information related to such tests for the purpose of determining the possibility of
32 public use of the property. If an agent, employee, or assistant is refused permission to
33 enter or remain on any private land for the purposes set out in this subsection, Anne
34 Arundel County OR BALTIMORE CITY may apply to a law court of the county where
35 the property or any part of it is located for an order directing that its agent, employee,
36 or assistant be permitted to enter and remain on the land to the extent necessary to
37 carry out the purposes authorized by this subsection. The court may require that
38 [Anne Arundel County] THE APPLYING JURISDICTION post a bond in an amount

1 sufficient to reimburse any person for damages reasonably estimated to be caused by
 2 test borings, soil tests, and related activities. If any person enters on any private land
 3 under the authority of this section or of any court order passed pursuant to it and
 4 damages or destroys any land or personal property on it, the owner of the property
 5 has a cause of action for damages against [Anne Arundel County] ~~THE JURISDICTION~~
 6 ~~THAT DID NOT AUTHORIZE~~ AUTHORIZED THE ENTRANCE. Any person who knows of
 7 an order issued under this subsection and who obstructs any agent, employee or any
 8 assistant acting under the authority of the order may be punished for contempt of
 9 court.

10 **Article 83A - Business and Economic Development**

11 5-1401.

12 (j) (1) "Brownfields site" means:

13 (i) An eligible property, as defined in § 7-501 of the Environment
 14 Article, that is:

15 1. Owned or operated by[

16 A. An] AN inculpable person, as defined in § 7-501 of the
 17 Environment Article[; or

18 B. An innocent purchaser that meets the requirements set
 19 forth in § 7-201(x)(2)(i) of the Environment Article]; and

20 2. Located in a county or municipal corporation that has
 21 elected to participate in the Brownfields Revitalization Incentive Program in
 22 accordance with § 5-1408(a) of this subtitle; or

23 (ii) Property where there is a release, discharge, or threatened
 24 release of oil, as defined in § 4-401 of the Environment Article, that is:

25 1. Subject to [a corrective action plan approved by the
 26 Department of the Environment in accordance with] ~~THE PROVISIONS OF~~ Title 4 of
 27 the Environment Article; and

28 2. Located in a county or municipal corporation that has
 29 elected to participate in the Brownfields Revitalization Incentive Program in
 30 accordance with § 5-1408(a) of this subtitle.

31 (2) "Brownfields site" does not include property that is owned or
 32 operated by a responsible person or a person responsible for the discharge.

33 5-1408.

34 (a) A county or municipal corporation may elect to participate in the
 35 Brownfields Revitalization Incentive Program by:

1 (1) (I) Submitting to the Department a list of potential Brownfields
 2 sites in the county or municipal corporation, ranked in the order of priority for
 3 redevelopment recommended by the county or municipal corporation; and

4 [(2)] (II) Annually updating the list submitted under [paragraph (1)]
 5 ITEM (I) of this [subsection] ITEM; OR

6 (2) (I) ENACTING LEGISLATION GRANTING PROPERTY TAX CREDITS
 7 IN ACCORDANCE WITH THE REQUIREMENTS OF § 9-229 OF THE TAX - PROPERTY
 8 ARTICLE; AND

9 (II) NOTIFYING THE DEPARTMENT OF THE LEGISLATION.

10 **Article - Tax - Property**

11 9-229.

12 (g) A [proportional share of a] taxing jurisdiction's contribution for each
 13 qualified Brownfields site to the Maryland Economic Development Assistance Fund
 14 under subsection (c)(2) of this section shall be [designated for financial incentives to
 15 be provided for qualified Brownfields sites in the jurisdiction making that
 16 contribution] USED ONLY FOR BROWNFIELDS SITES IN THE TAXING JURISDICTIONS
 17 THAT HAVE ENACTED A BROWNFIELDS PROPERTY TAX CREDIT ORDINANCE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
 19 Environment shall convene a work group from representatives of the Department of
 20 Planning, the Department of Business and Economic Development, various sectors of
 21 local government, real estate professionals, the business community, the banking
 22 industry, the environmental community, and members of the public and undertake a
 23 review of the Universal Environmental Covenants Act proposed by the National
 24 Conference of Commissioners on Uniform State Laws. The work group shall make
 25 recommendations to the Department of the Environment, and, in accordance with §
 26 2-1246 of the State Government Article, the Senate Education, Health, and
 27 Environmental Affairs Committee and the House Environmental Matters Committee
 28 on or before December 31, 2004.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 30 October 1, 2004.